

Serial No. 10/691,716

PATENT
Docket No. 58009-017200**REMARKS**

The office action issued by the Examiner and the citations referred to in the office action have been carefully considered.

Claims 1, 3-10, and 13 are pending. Claim 13 has been amended to correct a minor grammatical error. Claims 11 and 12 are withdrawn from prosecution.

Election/Restriction

Applicant submits that claims 11 and 12 are not directed to an invention distinct from and independent of the invention previously claimed. However, in response to the restriction, Applicant withdraws claims 11 and 12 from consideration, with traverse.

Claim Rejections - 35 U.S.C. § 103

The Examiner has rejected Claims 1, 3-10, and 13 under 35 U.S.C. § 103(a) as being unpatentable over Runge (U.S. Patent No. 5,247,781) in view of Grevich et al (U.S. Patent No. 4,305,240).

The Examiner admits that Runge does not disclose a power-driven film feed roller designed to apply a uniform pulling force on the film which is unwound and fed into the sealing unit wherein the power driven feed roller has on its surfaces a series of jaws for transversely sealing and separating the packages.

The Examiner therefore looks to Grevich to show this feature and asserts that it would have been obvious to one skilled in the art to combine the teachings of Runge with Grevich to result in the claimed invention.

▪ ***Grevich does not disclose applying a uniform pulling force***

Independent claims 1, 5, and 13 recite "a power-driven film feed roller designed to apply a uniform pulling force on the film."

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On page 3 of the Office Action, the Examiner states that Grevich discloses a packaging machine comprising a power-driven film feed roller designed to apply a uniform pulling force on the film.

Applicant respectfully disagrees with the Examiner. Grevich does not teach applying a uniform pulling force. Even further, the packaging machine of Grevich teaches away from applying a uniform pulling force.

Grevich discloses a package forming and sealing machine receiving articles confined within a conveyed tubular wrapper of sheet material, having a rotor (17), sealing and cutting heads (18) continuously driven by a motor (23), and chains (22.2,23-1), which keeps the film (12) under tension. The power-driven rotor has a series of jaws for transversely sealing and separating the packages, and downstream of the rotor is a belt (19) for collecting and feeding out the packages.

It is not possible to find in Grevich the positive teaching that the rotor applies a uniform pulling force on the tubular wrapper filled with articles. On the contrary, Grevich states:

The main shaft 17 receives rotary motion from the wrapper 11 so as to coordinate the rotational speed of the rotor with the rate of travel of the article-containing sheet material wrapper 14 being received by the rotor. More specifically, a source of rotary motion or motor 22 is connected with a variable speed drive 22.1 by a chain 22.2, and the variable speed drive 22.1 is connected to a sprocket 23 affixed on the main rotor shaft 17.1 by a chain 23.1. (Grevich, Col. 5, lines 20 to 29, Emphasis added)

Thus it appears that it is the wrapper (11) that drives the film (12); the rotational speed of the shaft (17) is coordinated to the speed of travel of the articles in the wrapper. In other words, the rotational speed of the shaft (17) is such that the peripheral speed of the external surface of the shaft (17) is equal to the speed of travel of the articles in the wrapper and thus the shaft is not able to apply any pulling force to the film (12), contrary to the solution of the present invention.

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Thus, because the speed of the wrapper is coordinated with the rotor, **the rotor cannot apply a uniform pulling force.** Again, the wrapper is not constantly gripped and thus there is no uniform pulling force.

Under these circumstances the objective teaching of Grevich leads to a completely different solution, would not, and could not be taken by a person skilled in the art for arriving at the solution of the present invention.

Applicant submits that independent claims 1, 5, and 13 are allowable over Runge in view of Grevich because Grevich does not teach applying a uniform pulling force.

Further, claims 2-4 and 6-10 which depend from claims 1 and 5, respectively, are also allowable over Runge in view of Grevich.

The fact that Grevich does not disclose applying a uniform pulling force was previously amended in the last response dated August 8, 2005. The Examiner did not acknowledge or respond to any of these arguments. The arguments are therefore presented again in more detail. Careful consideration of these arguments are respectfully requested.

- ***There is no suggestion to combine Grevich with Runge to result in the claimed invention***

Not only does Grevich fail to teach all the elements of the above claims, but the references lack the suggestion or motivation to combine references.

For instance, there is no indication in Grevich that a zip closure is introduced in the package. For opening the package of Grevich the user is obliged to use a certain force on the package itself or to have at his or her disposal a sharp tool like a knife or a pair of scissors, which renders the opening of the package uncomfortable.

It would therefore have been impossible for the skilled person who wishes to solve the above technical problem even to consider the disclosure of Grevich because this document

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describes a completely different article package without the possibility of the zip closure which is, on the contrary, required in the present invention, as stated in the claims.

Moreover, Grevich describes an old device whereby the joint of the two halves of the film is made longitudinally in the middle of the article and not laterally of it.

The fact that the joint is made in the middle of the article and not laterally renders technically impossible to think to introduce a zip closure. Therefore the known technical solution of Grevich makes the introduction of a zip closure impossible: even if one would think of inserting a zip closure, there would be no possibility to introduce the zip closure, due to the position of the joint of the two halves of the film (longitudinally in the middle and not laterally of the article), which does not give any room for a zip closure.

Therefore no person skilled in the art would arrive even at the mere idea of using the teaching of Grevich (no zip closure, old design) for solving the problem of the present invention.

Under these circumstances and taken account of the above considerations, the use of the teaching of Grevich for solving the problem of the present invention represents an ex-post-facto analysis, because only after knowing the solution of the present inventive the teaching of Grevich is considered, but, as seen above, the person skilled in the art at the time of the invention would not have considered Grevich, because it would have necessarily led him or her to a solution different from the one of the present invention.

In other words, at the time of the invention the skilled person, even if could have taken Grevich into consideration, would not have considered it.

According to Applicant's disclosure, it is important to avoid frequent crumpling of the film and tapes, which in turn means extended machine downtime to rearrange the film.

Applicant has complied with all requirements made in the above-referenced communication. In view of the foregoing, it is respectfully submitted that the pending Claims in

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the application are in condition for allowance. Allowance of the pending claims at an early date is courteously solicited.

If, for any reason, the Examiner finds the application other than in condition for allowance, the Examiner is respectfully requested to call Applicant's undersigned representative, Margo Maddux at (310) 586-7827 to discuss the steps necessary for placing the application in condition for allowance.

The Commissioner is hereby authorized to charge any additional required fee, or credit any overpayment, to Account No. 50-2638. Please ensure that Attorney Docket Number 58009-017200 is referred to when charging any payments or credits for this case.

Respectfully submitted,

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